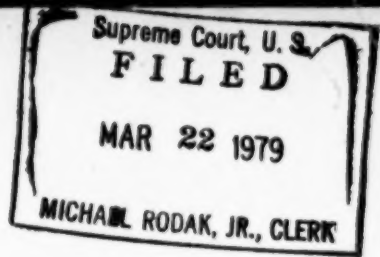


78-1490



IN THE
SUPREME COURT OF THE UNITED STATES

No.

HOLLAND UNIVERSAL LIFE CHURCH OF LOVE,
REV. ROBERT B. GRAHAM, SR., PASTOR AND
ASSOCIATE PASTOR, DANIEL J. CALLAHAN.

V.

Petitioner - Appellants

IN RE: Appeal of the Holland Universal Life Church
of Love, and Rev. Robert B. Graham, Sr., Pastor
and Associate Pastor Daniel J. Callahan, from the
<Bucks County Board of Assessment> Appeals on
County Tax Parcel No. 31-43-56

PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF PENNSYLVANIA

REV. ROBERT B. GRAHAM, SR.
PASTOR AND TRUSTEE, PETITIONER (Pro-Se)
OF THE HOLLAND UNIVERSAL LIFE
CHURCH OF LOVE,
46 LARK DRIVE,
HOLLAND, BUCKS COUNTY,
PENNSYLVANIA 18966

2/22/79

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IN THE
SUPREME COURT OF THE UNITED STATES

NO.

HOLLAND UNIVERSAL LIFE CHURCH OF LOVE,
REV. ROBERT B. GRAHAM, SR., PASTOR AND
ASSOCIATE PASTOR, DANIEL J. CALLAHAN.
Petitioner-Appellant

IN RE: Appeal of the Holland Universal
Life Church of Love, and Rev. Robert B.
Graham, Sr., Pastor and Associate
Pastor Daniel J. Callahan, from the
Bucks County Board of Assessment
Appeals.
County Tax Parcel No. 31-43-56.

PETITION FOR WRIT OF CERTIORARI TO SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE, CHIEF JUSTICE OF THE
UNITED STATES SUPREME COURT AND THE
ASSOCIATE JUSTICES:

Petitioner, Rev. Robert B.
Graham, Sr., Pastor and Trustee of the
Holland Universal Life Church respect-
fully prays that your Honorable Court
will issue a Writ of Certiorari to re-
view the Order of the Supreme Court of
Pennsylvania which affirmed the Common-
wealth Court of Pennsylvania which
affirmed the Order of the Court of
Common Pleas of Bucks County denial of
Tax Exempt status on Petitioner's
Church.

I. DECISIONS BELOW

On February 21st, 1979, the Supreme Court of Pennsylvania denied Petitioner's Petition for Allowance of Appeal. Attached hereto, marked Exhibit "A" is a true copy of their Order. On November 21st, 1978, the Commonwealth Court of Pennsylvania affirmed the Order and decision of the Court of Common Pleas of Bucks County, Pennsylvania. Attached hereto, marked Exhibit "B" is a true and correct copy of their Order and Opinion. On December 22, 1977, the Court of Common Pleas of Bucks County affirmed the decision of the Bucks County Board of Assessment Appeals' denial of Petitioners' Church Tax Exemption.

II. JURISDICTION

Jurisdiction of your Honorable Court is invoked pursuant to 28 United States Code, Section 1257 to review the decision of the highest Pennsylvania State Court on the grounds that your Petitioner's Constitutional Right of Freedom of Religion was violated.

III. QUESTION FOR REVIEW

Under the First Amendment (made applicable to the States by the Fourteenth Amendment) of the United States Constitution, can a Tax Exemption be denied solely on the basis of Petitioner's Religious beliefs?

* unreported as of this date

IV. STATEMENT OF THE CASE

Nature of Case

This case is an appeal from the highest State Court in Pennsylvania. The issue involved herein is whether or not Petitioners' constitutional rights secured under the first and fourteenth Amendments were violated when local taxing authorities denied Petitioners' request for tax exemption status enjoyed by other Churches in the Commonwealth of Pennsylvania. The Trial Court held that Petitioner Church was not a normal "Church" (Record, pp. 342a-346a) and, therefore, should not be granted tax exempt status as enjoyed by other Churches in Pennsylvania. The relevant facts of the case are as follows.

Facts of Case

On or about June 24, 1977, Petitioner (hereinafter called "The Church") filed an appeal with the Court of Common Pleas of Bucks County asking the trial Court to reverse the denial of the Church's application for real estate tax exemption by the Bucks County Board of Assessment Appeals. On or about September 20, 1977, a de novo Hearing was held before Judge Bodley of the Court of Common Pleas of Bucks County, Pennsylvania. The following testimony was offered by the Church in support of granting the real estate tax exemption.

The first witness called to testify on behalf of The Church was Associate Pastor Rev. Daniel J. Callahan. Reverend Callahan testified under oath that on every Sunday and many times during the week, there were conducted at the Church worship groups on religion (24a). Rev. Callahan continued his testimony by saying that the Church acquired its monies to function as a direct result of donations and that the Church is a non-profit organization (24a) and that donations were not required to be a regular Church member (24a-25a). He continued his testimony by saying that the Church does not discriminate against anyone because of their race, age, or sex. As such, he stated that the Church was open to the general public on Sundays (R25a).

On direct examination, he testified further that the attendance for Sunday worship services was as high as forty members and that the total membership was about 100 members (R26a). Rev. Callahan then concluded his testimony by stating that the Church had been granted 'tax exempt' status from the Internal Revenue Service and also from the United States Postal Service (R36a).

The next three witnesses called to testify on behalf of the Church were members Robert E. Platt, III, James Sullivan, and Richard Holloway. In summary, they testified as follows: (See Record at pages, 86, 87, 103, 104, 115, 117, 125, 138, 144, 146, 147)

1. That each member regularly attended 'worship' services every Sunday and sometimes during the week. That these services lasted about two hours and that on the average forty members were present.

2. That the 'worship' services consisted of a slight prayer and then a pledge of allegiance to the flag and, thereafter, a worship discussion about "to do God's will" and "God-given rights". That also at these worship services, the 'King James' Bible was used and that some of the discussions centered around the "Ten Commandments". Finally, that each member was satisfied with the type of services conducted at the Church.

The last witness called on behalf of Petitioner Church was Elizabeth Graham. She testified that attendance was about forty members at each regularly held worship service, on Sunday at 2:00 P.M. Then she stated that there was presently binding an Agreement of Sale between the Trustees of said Church and the record title owners (R148a) and that it was the sole duty of the Church to pay any real estate taxes assessed and levied against the real estate in question (148a). Finally, she concluded her testimony by saying that the Church had conducted one marriage since it was founded. Then Petitioner Church rested its case.

Than, Appellee-Respondent Taxing Authorities called to the stand, Rev. Robert B. Graham, Sr., Pastor of the

Church. He testified as follows: (1) that he was an ordained 'Cardinal' of the Universal Life Church; (2) that he had 12 years of religious schooling in the Catholic Faith (R206a, 207a-209a); (3) that the Church did abide by the Golden Rule and the 'Ten Commandments' (R211a, 215a, 241a). (4) that Rev. Graham and the Church believed that there was a 'Supreme Being' (R212a) (5) that there were a membership in said Church of 100 people and that there were regularly scheduled worship services every Sunday, at 2:00 P.M. (R229a)

The next and final witness called to testify on behalf of Respondent-Appellee Taxing Authorities was the Chief Real Estate Appraiser of Bucks County. He testified on cross-examination that there was nothing written in a book to define a 'Church' (R270a) and that he did not make the classification on the Church's real estate. Finally, he concluded his testimony by saying that he did not examine the upstairs of the Church or the garage attached thereto (R248a).

At the conclusion of the Hearing, the Trial Judge made the following statements and/or conclusions of law. He said that the Church was not dedicated to public Christian Worship or the Worship of any deity or god or greater human being (R344a). The Judge further stated that the Church's activities are simply not religious activities to qualify as a 'Church' (R344a-345a). As such, he said the Church did

not qualify as any kind of religion or religious group or religious service (R345a).

The Trial Judge concluded by saying the following: "...I believe that you believe it but I find it awfully hard to believe that you believe that simply because to me it is incredible that people of your intelligence would believe that on receipt of a document from a mail-order house in California which describes you as a minister, that you have any authority and by way of formal religious ordination or otherwise to hold yourself out as a minister" "Moreover, I believe that you having designated yourself as a Cardinal or having been designated a Cardinal is another bit of sham." "It is very difficult thing for me, trying to be as objective as I can, to understand how you as an intelligent man can believe and hold yourself out to be, "a Cardinal" of any Church." ... "I believe that your followers, Mr. Graham--and you have many dedicated followers. I am sorry more of them are not in the Court Room. I believe that they believe in you and I think what you stand for but, I do not believe...that you lawfully have the right to withhold yourself for this purpose, and certainly for any other purpose, as a Church" ... "I reserve the right to have this last word; but I think your whole behavior here and the way this thing has been handled by you deserves a comment from the Bench which in my judgment is appropriate. The appeal is denied." (Record at pages 345a-347a)

Immediatley, Petitioner Church filed an appeal with the Commonwealth Court of Pennsylvania. On November 23, 1978, the Commonwealth Court affirmed the Trial Court decision. Then, on or about December 11, 1978, Petitioner filed a Petition For Allowance of Appeal with the Supreme Court of Pennsylvania. On or about February 21, 1979, the Supreme Court of Pennsylvania denied Petitioners' Appeal.

Hence, this appeal is now being filed with your Honorable Court for a Writ of Certiorari to review the order and decision of the aforesaid State Courts.

V. REASONS RELIED UPON FOR GRANTING WRIT OF CERTIORARI

During the couse of the Hearing in the Trial Court on whether Tax Exemption should be granted to Petitioner Church, the subject of whether Petitioner's Church had a valid 'Religion' under state statutory law was raised by both the Trial Judge and Taxing Authorities. During the course of the proceeding, Petitioner Church objected on many occasions as to the right of the Taxing authorities to inquire into Petitioners' religious beliefs. Each time your Petitioner objected to questions about religious beliefs, the Trial Court overruled the same and at one time told the Petitioner that if he did not keep his mouth shut, the Judge would have your Petitioner removed from the Court Room. A careful review of the record of this case will support the conclusion that Petitioner specifically preserved for appellate review the constitutional issue involved herein.

At the conclusion of the Hearing, the Trial Judge held that Petitioner Church was not a valid religion and, therefore, was not entitled to tax exempt status on the Church real estate. The Trial Judge (in his opinion, record pp. 372a-73a) held that the Pastor of said Petitioner Church was not a minister even though the Pastor had a "Certificate" from the Mother Church in California stating that said Pastor was authorized to conduct religious services.

In summary, the Trial Judge held that under the state statutory exemption law, Petitioner Church did not qualify because of their religious beliefs.

For the specific reasons hereinafter cited in Petitioners' argument, the decision of the Trial Judge was in conflict with prior case law rendered by the Supreme Court of the United States.

VI. ARGUMENT IN SUPPORT OF PETITION

1. Under the First Amendment (together with Fourteenth Amendment) of the United States Constitution, CAN A TAX EXEMPTION FOR A CHURCH BE DENIED SOLELY ON THE BASIS OF RELIGIOUS BELIEFS?

The Hearing in the State Trial Court on Petitioner Church's application for tax exemption lasted two days. During the Hearing seven witnesses were called to testify. At the conclusion of said Hearing, the Trial Judge speaking from the Bench advanced the following specific reason for denial of the exemption. His reason was as follows. (quoted in part from Record, pp. 342a-346a)

"Moreover and most importantly I find as a fact that the activities of the appellant Robert Graham, which he has designated as Church activities and

and hence has sought to go under constitutional provision and statutory provision which exempts all Churches and Meetinghouses and other places of actual stated religious worship, such activities are not religious in nature. That the real estate in question, I find as a fact and conclude from all the testimony, is not a church, that the activities are not matters of worship but rather on this record alone-but rather are activities which are, I say, quite far from those activities which (p443a) historically and routinely are carried on in what is now normally known as a Church....

(cont. on page 344a) "So, I am blunt to say that my conclusions that your activities are-although honorable I am sure in your view and although pointed towards worthy ends, I am sure in your view-simply not religious activities, simply not such as could possibly qualify your residence which I find as a fact, the real estate in question, the remains, not qualified as any kind of religion or religious group or religious service. I believe that you believe it but I find it awfully hard to believe that you believe that simply because to me it is incredible that people of your intelligence would believe that on receipt of a document from a mailorder house in California which describes you as a minister, that you have any authority and by way of formal religious ordination or otherwise to hold yourself out as a minister"... "Moreover I believe that you having designated yourself as a Cardinal or having been designated a Cardinal is another bit of a sham." "It is very difficult thing for me, trying to be as objective as I can, to understand how you as an in-

telligent man can believe and hold yourself out to be a 'Cardinal' of any church." "I believe that your followers, Mr. Graham-and you have many dedicated followers. I am sorry more of them are not in the Court Room. I believe that they believe in you and I think what you stand for but, I do not believe...that you lawfully have the right to withhold yourself out for this purpose, and CERTAINLY FOR ANY OTHER PURPOSE, AS A CHURCH"... "I reserve the right to have this last word; but I think your whold behavior here and the way this thing has been handled by you DESERVES A COMMENT FROM THE BENCH WHICH IN MY JUDGMENT IS APPROPRIATE. The appeal is denied." (Record, pp.342a-346a)

To completely understand the position (or prejudice) which the Trial Judge had against Petitioner Church it is necessary to completely read the record in full at the pages 342a thru 346a. It is very clear that the Trial Judge disagreed with the religious doctrine and beliefs of Petitioner Church.

When Petitioner Church filed his Notice of Appeal (to Commonwealth Court) the Trial Judge wrote an opinion pursuant to P.A.R.A.P. No. 1925(a). Again in this opinion, the Trial Judge clearly showed that he disagreed with the religious doctrine and beliefs of Petitioner. The relevant portion of the opinion provides, as follows, to wit: (Record pp. 372a-73)

"In the opinion of the Hearing Judge, Graham is not a "minister" although admittedly he has received a certificate so designating him and although, according to his testimony, he is a "cardinal" of the organization which denominated him as "minister". He has had no formal religious training nor, so far as we can determine from this record, has he been awarded the degree of Doctor of Divinity, notwithstanding his use of "D.D." following his name and signature found in certain documents. The Hearing Judge believes that the record is crystal clear in its revelation that Graham and his followers are concerned with affairs of State, rather than those of God and ecclesiastical matters. The pursuits of this group of people are obviously secular in nature. It may be that Graham might lawfully continue to conduct his orgainization's affairs and pursue its goal under the name "The Church of Love". We simply here determine, and so find, that... is not a Church, a meetinghouse or other actual place of regularly stated religious worship..."

It is clear from the record in this case, as well as the opinion of the Trial Judge, that Petitioners' religious beliefs and doctrine offends the conscience of

the Trial Judge. Therefore, the question is raised, whether or not the Trial Judge had the authority of define 'religion'. It is clear from the record that the Trial Judge made his official conclusion that the activities of Petitioner were not the activities of a 'regular' Church in the eyes of the Trial Judge.¹ It is Petitioners' position that the Trial Judge exceed the authority vested in his judicial position. The first amendment of the United States Constitution prohibits the State, or any Judge acting under the authority of state law, from defining 'religion'.

Even if, the Trial Judge, or the several Respondent Taxing Authorities, do not agree with Petitioners' religious doctrine or beliefs, just the same, the Church enjoys complete freedom of religion under the First Amendment of the United States Constitution. As such, Petitioners' religious beliefs and doctrine cannot be questioned in a tax exemption proceeding, regardless whether or not they may conflict with the reader of this brief. Accordingly, form of religious beliefs cannot be considered a

¹ During the Hearing in the Trial Court, Petitioners had five witnesses who testified to the nature of the services conducted. The summary of the testimony is as follows: That the services consisted of a slight prayer and thereafter, a worship discussion about "to do God's Will" and "God-given Rights" and the "Ten Commandments". Under the Trial Judge's definition, the above is not religious.

a valid state objective in passing upon whether or not Petitioner Church is entitled to an exemption under the real estate taxation law.

Just what does this constitutional provision mean when it is applied to state tax exemption of Church real property? It is perfectly obvious that any type of statutory exemption that discrimination between types of religious beliefs-that discriminates on the basis of the contents of such belief-would offend both the federal and state constitution. Thus the United States Supreme Court stated in Everson v. Board of Education, 330 U.S. 1, 15, 67 S.Ct. 504, 91 Led 711, 168 A.L.R. 1392, that "...Neither a State not the Federal Government can set up a Church. Neither can pass laws which aid one religion, aids all religions, or prefer one religion over another." In American Sugar Refining Co. v. Louisiana, 179 U.S. 89, 92, 21 S.Ct. 43, 45, 45 Led 102, appears the following".

"...Of course, if such (tax exemption) discrimination were purely arbitrary, oppressive or capricious, and made to depend upon difference of color, race, nativity, religious opinions, political affiliations, or other consideration having no possible connection with the duties of citizens as taxpayers such exemption would be pure favoritism, and a denial of equal protection of laws to less favored classes..."

The case law supporting Petitioners' position that the Trial Judge had no authority whatsoever to define religion is long. Both the Federal and State Court decisions, cited below agree with Petitioners' proposition. The case law is as follows:

Federal: See, Morey v. Riddel, 205 F. Supp 918 (S.D. Cal. 1962) (This involved a Church with no distinctive identifying name, written constitution, by laws or operational guide other than the Holy Bible was conceded to be 'religious' for the purpose of granting individuals tax deductions for contributions to the Church under the Internal Revenue Service Code of 1954, Section 170) See, also, United States v. Ballard, 322 U.S. 78, 64 S.Ct. 882 Led 1148 (1944); McGowan v. Maryland, 366 U.S. 420, 441-42; Torcasos v. Watkins, 367 U.S. 488, 495; Minersville School District v. Gobitis, 310 U.S. 586, 60 S.Ct. 1010, 84 Led 998, 127 A.L.R. 1493; School District of Abington v. Schempp, 374 U.S. 203, 83 S.Ct. 1560, 10 Led2d 844; Universal Life Church v. United States, 372 F. Supp 770 (DC-Cal-1974) (This case involves the validity of Petitioners' religion. In this case, the Federal court held that Petitioners' religion was valid under the First Amendment and, therefore, Petitioner was entitled to an exemption under the Internal Revenue Code.)

State: See, Comm v. Leshner, (Pa) 17 Serg & R 155 (1827); Specht v. Comm. (pa) 8 Pa 312, 322 (1848); Conversion

Center Charter Case, (Pa) 388 Pa 239, 245-46 (1957); In Re Estate of Laning, (Pa) 339A2d 520, 522 (1975); Watchtower B & T Soc. v. County of Los Angeles, 30 Cal 2d 426; In Re Walker, 200 Ill 566; Fellowship of Humanity v. County of Alameda, (Cal.) 315 P2d 394;

When tax exemption relief is made available for real estate through State Constitutional provisions and statutory laws, as here, the State Legislature consistent with the First Amendment (made applicable to the States by the Fourteenth Amendment) cannot define 'worship' or 'religion' in any manner whatsoever which will give the effect of a more favorable position for one religion over another. To do so, would clearly be unconstitutional. In other words, in the eyes of the Courts (including the Trial Judge below) and Administrative Branches of Government (including the Respondent County Board of Assessment), all religions or religious beliefs/doctrines, whether or not they may personally offend the conscience of the person involved, (as did happen with the Trial Judge) must be afforded equal treatment under the law. In the instant case, however, Petitioner Church was denied this constitutional protection.

It is clear from the record in this case, that the religious beliefs of the "Universal Life Church" are under

attack². The Trial Court, as well as the Respondent Taxing Authorities, held that this Church is not a religion and, therefore, does not enjoy the protection afforded by the First Amendment of the United States Constitution. This same issue involving the question of whether or not the "Universal Life Church" is a religion entitled to exemption under federal taxation law has already been decided by a Federal District Court Judge. In Universal Life Church v. United States, 372 F.Supp 770 (DC-Cal-1974) the Court held that Petitioners' religion was protected under the provisions of the First Amendment. In that case the Court said:

"...The Court must then address itself to the defendants' second conclusion: that the ordination of ministers, the granting of church charters and the issuance of Honorary Doctor of Divinity certificates by plaintiff are substantial activities which do not further any religious purpose. Certainly the ordination of ministers and the chartering of churches are accepted activities of religious organizations... The fact that the plaintiff distributed ministers' credentials and

² The "Universal Life Church" is the name of the religion. The mother church is located in California. Petitioners' Church (Holland Universal Life Church of Love) is the branch of the Church located in Pennsylvania.

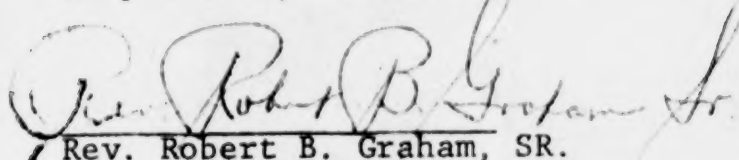
Honorary Doctor certificates is of no moment. Such activity may be analogized to mass conversions at a typical revival or religious crusade. NEITHER THIS COURT, NOR ANY BRANCH OF THIS GOVERNMENT, WILL CONSIDER THE MERITS OR FALLACIES OF A RELIGION. NOR WILL THE COURT COMPARE THE BELIEFS, DOGMAS, AND PRACTICES OF A NEWLY ORGANIZED RELIGION WITH THOSE OF AN OLDER MORE ESTABLISHED RELIGION. NOR WILL THIS COURT PRAISE OR CONDEMN A RELIGION, HOWEVER EXCELLENT OR FANATICAL OR PREPOSTEROUS IT MAY SEEM. WERE THE COURT TO DO SO, IT WOULD INFRINGE UPON THE GUARANTEES OF THE FIRST AMENDMENT..."

Finally, it is quite clear from the record in this case, that the Trial Judge had a prior religious prejudice against the beliefs of Petitioner Church. Certainly, with keeping this in mind, the Trial Judge could not objectively hear this case without permitting his prior prejudices from influencing his decision. Therefore, Petitioner Church did not receive a fair hearing. Accordingly, the Trial Judge should have disqualified himself and thereafter, selected another Judge to hear the case. Failure on his part to do so should be construed as an abuse of judicial discretion. Accordingly, Petitioner Church's constitutional right of Freedom of Religion was therefore denied. As such your Honorable Court to issue a Writ of Certiorari to the Supreme Court of Pennsylvania to review this case.

VII. CONCLUSION

For the foregoing reason, the Writ of Certiorari should be granted to review this case.

Respectfully Submitted,



Rev. Robert B. Graham, SR.
Petitioners* (Appellant
in Court below)

Pastor and Trustee of
the Holland Universal
Life Church of Love,
46 Lark Drive
Holland, Bucks County
Pennsylvania 18966

*In Pro Se capacity

SUPREME COURT OF PENNSYLVANIA
Eastern District

456 City Hall
Philadelphia, 19107
(215) 686-3581/84

February 22, 1979

Dear Reverend Graham:

This is to advise you that on February 21, 1979 the Supreme Court entered its Order denying the Petition for Allowance of Appeal in the above-captioned matter.

Very truly yours,
Sally Mrvos
Prothonotary

OPINION

OPINION BY JUDGE WILKINSON, JR

FILED November 21, 1978

This is an appeal from an order affirming the denial by the Bucks County Board of Assessment Appeals (Board) of an application for tax exemption for the dwelling house and lot of Robert B. Graham, Sr., (hereinafter appellant) and his family on the ground the premises were being used as a "church for religious services and meetings".

The subject property of this appeal was acquired by appellant and his wife by deed in 1962. From the record it appears that at no time since acquisition of the property has it ceased to serve as the residence of appellant and his family. Events commencing sometime in late 1976 or early 1977 culminated in appellant's March 7, 1977 application for exemption under Section 202(a)(1) of the Fourth to Eighth Class County Assessment Law (Law)¹, Act of May 21, 1943, P.L. 571, as amended, 72 P.S. §5453.202(a)(1).

On April 14, 1977 appellant was notified by mail of the Board's denial of his application. Appellant requested and on May 31, 1977 was afforded a courtesy hearing at which his application was again denied. Following affirmation of the Board's determination by the common pleas court, appellant instituted the present appeal.

Appellant conducts "service" in his home for varying numbers of persons. Although the lengthy record examines in repetitive detail the nature of the "church" both physically and spiritually the substantive content and regularity of the "services", and the mechanics of appellant church's connection with its mother organization, we think the controlling aspect of the case concerns the proper application of the statutory exemption relied upon by appellant. Accordingly we take no position on the highly controverted issues revolving around the content and validity of appellant church's creed or doctrine.

Article 8, Section 2(a) of the Pennsylvania Constitution, the source of power for exempting classes of property from taxation, provides: "The General Assembly may by law exempt from taxation: (i) Actual places of regularly stated religious religious worship..." However, it should be emphasized that "[t]he claimant of exemption from taxation must show affirmative legislation in support of his claim, and his case must be clearly within it. The constitution exempts nothing; it merely permits the legislature to exempt, within the lines laid down for its guidance." Philadelphia v. Barber, 160 Pa. 123, 126 28 A. 644, 644-45 (1894).

As already noted appellant seeks to bring the subject property within the intendment of the exemption accorded "churches, meeting houses or other regular places of stated worship" of Section

202 (a)(1) of the Law, 72 P.S. 5453.202 (a)(1). This Court is therefore required to examine the parameters of that exemption.

Over a century ago, faced with the same basic question, our highest Court, speaking through Chief Justice Agnew, replied:

"If anything be plain in the constitution, and the law passed to carry out.... (the exemption) of churches from taxation, it is that a place of actual religious worship only can be exempted... It must be a place of religious worship... The convention did not mean to exempt a place merely; for this would be unmeaning, without something to characterize the place. But when that body said, 'an actual place of religious worship,' it expressed a general thought, which would embrace all kinds of buildings by simply defining the use, which was to be the ground of exemption." Mullen v. Commissioners, 85 Pa. 288, 291 (1877). (Emphasis in original)

In more than one hundred years since the Mullen decision the courts of this Commonwealth have had the opportunity to clarify the type of "use" which will qualify for exemption's constitutional and legislative background, noted

that there was an unsuccessful attempt made to amend the constitution to provide that "parsonages owned by any church or religious society with the lands attached not exceeding 5 acres" would be included in the list of exemptable classes of property. Second Church of Christ Scientist v. Philadelphia, 189 Pa. Superior Ct. 579, 583, 151, A.2d 860 (1959). The Superior Court held that a parking lot next to a church used by the people attending church, was exempt. It was reversed by the Supreme Court on the basis that only the place of worship, ie. the church, was exempt. Second Church of Christ Scientist v. Philadelphia, 398 Pa. 65, 157, A.2d 54 (1959).

This our courts strictly contravene the exemptions from real estate taxation. A janitor's residence located on church property was taxable. City of Pittsburgh v. Third Presbyterian Church, 10 Pa. Superior Ct. 302 (1899). Vacant lots held for future construction of or addition to a church building have been held taxable. First Baptist Church v. Pittsburgh, 341 Pa. 568, 20 A.2d 209 (1941). This was true even where, during part of the year, religious services were conducted in a tent set up on the lot. Philadelphia v. Overbrook Park Congregation, 171 Pa. Superior Ct. 581, 91 A.2d 310 (1952)

Perhaps more revealing than the cases detailing particular aspects of a religious institution which may qualify as places of religious worship are those

cases which suggest the kind of use required. "Actual use means exclusive use, and mere concurrent or alternate occupation does not come within the requirement for exemption..." Christian Association v. City of Philadelphia, 75 Pa. Superior Ct. 516, 519 (1921).

Through examination of the records leads inescapably to the conclusion that appellant's residence was not so exclusively utilized for religious worship.

Illustrative of this Court's view of the proper test to be applied in a fact situation such as this appeal presents is the case In Re Petition of Second Reformed Church, 4 Dauph. 208 (1901). That case concerned a building known as a parsonage constructed on a lot with the church building in such fashion that joists of the former extended into and fastened to the timbers of the latter. The minister and his family resided in the parsonage portion where, in addition, church groups met and catechetical instruction was provided- all meetings there opened and closed with a song and prayer. Faced with such a use mixture the court said, "We are accordingly brought to the conclusion that although this property is used at times for religious services and the dissemination of religious instruction, it is not in actual or exclusive use for religious worship, [and is therefore subject to tax]." In Re Petition of Second Reformed Church, supra, at 210. We think this reasoning applies with equal force to the facts presented by this appeal.

Accordingly, we will enter the following.

ORDER

And Now, November 21, 1978, the decree of the Court of Common Pleas of Bucks County, in No. 77-6195-04-6, entered December 22, 1977, denying Robert B. Graham, Sr.'s appeal from the Bucks County Board of Assessment Appeals decision denying tax exempt status to County Tax Parcel No. 31-43-56, is hereby affirmed.

Roy Wilkinson, Jr., Judge

¹ Section 202 of the Law reads in pertinent part:

"(a) The following property shall be exempt from all county, borough, town township, road, poor, county institution district and school (except in cities) tax, to wit:

"(1) All churches, meeting houses or other actual places of regularly stated worship, with the ground annexed necessary for the occupancy and enjoyment of the same.

"(b) Except as otherwise provides.. all property real or personal, other than that which is in actually and regularly

used and occupied for the purposes specified in this section, and all such property from which any income or revenue is derived shall be subject to taxation..."

IN THE COURT OF COMMON PLEAS
OF BUCKS COUNTY

O P I N I O N

This is an appeal from the denial by the Board of Assessment Appeals of Appellant's application for tax exemption of his dwelling house sought on the basis that the residence is being used as a church. After hearing before the undersigned the appeal was dismissed forthwith. Appellant has now appealed to the Commonwealth Court. In accordance with the Rules of Appellate Procedure we hereunder state the reasons for our decision.

Notwithstanding the fact that Bucks County is the Third Class, the Fourth to Eighth Class County Assessment Law governs tax assessment procedures in this County.¹ Sections 202 thereof provides in pertinent part:

"(a) The following property shall be exempt from all county, borough, town, township,

¹ Act of May 21, 1943, P.L. 571, as amended, 72 P.S. 5453.101 et seq. See also Act of July 29, 1953, P.L. 974, as amended, 72 P.S. 5347 (1965 p.p.); U.S. Steel Corp. v. Board of Assessment and Revision of Taxes, 422 pa. 463, 466 (1966); Appeal of Cabot 95 Trust, 27 Commonwealth Ct. 214, 215, 216 (1976).

road, poor county institution district, and school... tax, to wit:

(1) all churches, meeting houses or other actual places of regularly stated religious worship, with the ground thereto annexed necessary for the occupancy and enjoyment of the same."

The individual appellant, Robert B. Graham, Sr. on March 7, 1977, applied for tax exemption of his personal residence, tax parcel 31-43-56, being 46 Lark Drive, Holland, Northampton Township, Bucks County, on the ground that the premises were being used as "a church for religious services and meetings". The application, which was signed "Reverend Robert B. Graham, Sr., D.D.", noted that the record title was in the name of Robert B. and Wlizabeth Graham, his wife as recorded in Deed Book No. 1690, page 4. The application went on to state that the address to which all communications should be transmitted was the "Church of Love, Holland Church of Gospel Ministry, Inc. 46 Lark Drive, Holland, Pa. 18966".

After attempted inspection of the premises by the Board's chief appraiser on March 30, 1977, the Board of Assessment Appeals by letter dated April 14, 1977 informed Graham that the application for tax exemption had been denied. Thereafter, on April 26, 1977, Graham wrote the Board requesting a hearing

"to appeal your discriminatory decision". Such a courtesy hearing was afforded the appellant on or about May 31 and in due course the Board reaffirmed its earlier decision. The appeal to this Court followed. Testimony upon the appeal was heard over a two-day period. A resume of the salient facts is set forth below without comment upon the credibility to be afforded the testimony of appellant Graham and certain witnesses.

Upon inspection of the real estate in questions the Board's chief appraiser found the same to be a typical two-story Colonial dwelling house situated in a residential neighborhood. No sign or other visual indication of a place of worship was posted outside the house. The witness was permitted to view but a portion of the first floor area of the house before he was evicted by Graham with the threat that he would be sued for "everything [he] owned" and with the further threat "[he] would never own anything else the rest of [his] life." In spite of his brief opportunity to view the premises the appraiser testified that he saw nothing to indicate that the building was used as a church. The kitchen, dining room and living room are fitted for normal residential use and with normal equipment to be expected in such rooms.

The appeal was filed in the name of the "Holland Universal Life Church of Love," Graham, as "Pastor" and one Rev. Daniel J. Callahan, as "Associate Pastor" yet, as noted heretofore, the application for exemption eas in the

name of Graham alone, and requested that the Board communicate with the "Church of Love, Holland Church of Gospel Ministry Inc.". The testimony revealed that the alleged church was founded as a result of a mail order request by Graham addressed to an organization known as the Universal Life Church, headquartered in California. The correspondence led to the issuance of a certificate to Graham, designated the name of his church as "Holland Universal Life Church of Pennsylvania/New York" dated May 24, 1977. It appears that the by-laws and charter of the church (not produced) were signed on May 21, 1977, according to the testimony prior to the receipt of the certificate. The appeal, of course, was made in March at a time when, according to Graham, his church was known as the "Church of Gospel Ministry, Inc." (yet another name) founded by him, he said, in January 1977 as a result of a letter written to someone in Chula Vista, California. Graham testified that he had been "ordained" a minister through the mail on January 18, 1977 and was later ordained a "Cardinal" of the church by one "Cardinal George McClean" who came down from New York to ordain him. He acknowledged that he had no religious training other than what he termed was twelve years of religious schooling in the Catholic faith. We noted parenthetically the signing of his application as "Rev. Robert B. Graham, Sr., D.D.", the last designation apparently indicating a degree of Doctor of Divinity". He did not reveal,

when, if, or by whom such a degree was conferred upon him.

Graham, his wife, and three of his children reside in the dwelling house just as they had for many years prior to their decision to turn the residence into a "church" property. Mrs. Graham freely admitted that the family lives, sleeps and eats in the building which, according to her, contains five bedroom, two and one-half baths, an office, living room, family room, dining room and kitchen and a single-car garage. She acknowledged that upon the founding of the "church" in January 1977, no application had been made to the township authorities for permission to use the building as a church.

Attached to Graham's appeal from the action of the Board of Assessment Appeals will be founded what is designated as an "Agreement of Sale" dated May 4, 1977 which ostensibly is an agreement between Graham and his wife as sellers, to convey the residential property to himself, his wife, and his son, Jerome R. Graham as "Trustees for the Holland Universal Life Church of Love". The terms of the agreement, signed by Graham and his wife as sellers and as well, by him, his wife, and son, as buyers in their capacity of trustees calls for a consideration of \$49,000.00. That sum is to be paid in the following manner: (1) one dollar in cash upon execution of the agreement, (2) delivery of a judgment note in the sum of \$5,000.00 within six months from the date of the agreement, and (3) "to make

upon demand of seller monthly payments on said remaining purchase price (\$44,000.00) in equal monthly installments of \$733.00 per month until the time of final settlement". It further provides that at the time of final settlement buyer will any amount which remains due together with interest of 9%. The agreement calls for settlement within five years of the date of the agreement, May 4, 1977.

We are not aware of whether or not the one dollar down money has been paid by the Grahams, as trustees for the church, to themselves individually, but it is clear that the judgment note had not been executed and delivered as of the date of hearing (September 20-21, 1977), and it is clear that no monthly payments of \$733.00 had been demanded presumably, by the Grahams of themselves and son, as trustees, nor have any such sums been paid. It is, of course, evident that as of the time of the agreement of sale, May 4, 1977, the Holland Universal Life Church of Pennsylvania/New York, chartered May 24, 197, had not come into existence nor, so far as we can determine from this record, is there an entity known as "Holland Universal Life Church of Love".

With respect to the activities of the so-called church, the record will reflect conflicting statements as to the nature of the services and the Church doctrine. Various witnesses testified that its doctrine was, inter alia, to perpetuate the United States

Constitution, to reestablish the true value of human beings and to do God's will. It was also testified that the doctrine is not based upon a belief in a Supreme Being, but upon non-infringement upon the rights of others. Graham testified that the doctrine might be summarized in this fashion. "As long as you don't infringe upon the rights of others, you should be able to do what you like to do". And further, that the church 'abided by the Golden Rule and Ten Commandments and the Constitution of the United States".

As to membership in the church it was testified that the member may be Christians or "anything else". One witness testified that the church was open to agnostics and atheists. The church does not keep records of donations nor does it keep any financial records whatsoever. Mrs. Graham testified that those who are members of the church do not wish them to "maintain a membership list". She stated however that they had a mailing list, but that all persons named upon such list were not church members. There are no books or records of any kind kept by the church nor does the church file any form of tax returns. When further queried concerning church records finances Graham states that his answer might tend to incriminate him and thus pleaded the Fifth Amendment. We did not oblige him to answer the questions.

However, all witnesses revealed

something of the nature of the "church services". While there was conflicting testimony concerning when such services were held, it appears that according to at least two of the witnesses the church is open at any time and particularly between 10:00 A.M. to 10:00 P.M. on Sunday but that no set time for Sunday services had been fixed or maintained. Other witnesses, including Graham, testified that church services were held at 2:00 P.M. every Sunday and that various other meetings were held throughout the week. The meetings may last for two hours or more and various topics are discussed at such services. Various witnesses testified that among the subjects discussed were 'religion'. "Constitutional Government", "a variety of things", "the Ten commandment, especially 'Thou shalt Not Steal'. "The Constitution as applied to religion", "God", "God-given rights", "books and dictionaries", "the ruination of the U.S. Dollar", "Treason and the Panama Canal" and "Taxation issues".

Graham produced two documents entitled "Annual Report of the Church" which are appended hereto as a Court Exhibit. It will be noted that "Creed and Beliefs", "10 Commandments", "Golden Rule and God" were reported to have been discussed during a number of early meetings, and very occasionally later on. Other meetings were simply designated as "Director" Meetings. In addition to the topics of discussion mentioned heretofore the reports reveal the following matters engaged the interest of those present:

"Watergate-Nixon", "Ways to Help Honest Politicians", "Correcting Evil in Government", "Proper Use of Hand Guns", and Judges and Honesty". So far as can be determined from this record, such were the nature of the "services" conducted in the Church for which Graham seeks exemption. The meetings during which these topics are discussed were said to be held "whenever several of us get together". Various witnesses testified that at the services as few as six may be in attendance and as many as forty. The annual reports speak for themselves in this regard.

As noted heretofore Graham refused to reveal details about the church's finances but did testify that it had received an income of about \$5,000.00 from May of 1977 to the date of the dearing, approximately \$2,000.00 of which came from his personal funds. He stated that the expenditures also totaled about \$5,000.00 during this period. When queried about the nature of the expenditures Graham stated that they had been made for "candles, matches, incense and church functions".

It is clear from the testimony of all witnesses that when one is initiated as a "member" of the church he is ordained and receives a letter congratulating him upon his becoming a "minister". One witness recalled that the letter came from New York. Another witness, Daniel J. Callahan, named as an appellant, termed himself an Associate Minister" who had been "sworn in" by Graham. When queried he testified that he did not yet consid-

er his house to be a church and had not asked for a tax exemption upon it. Another witness acknowledged that although the avoidance of payment of taxes was not a "principal discussion" of the meetings, such subject "might be discussed but it certainly isn't most of the time of the meeting". He stated that it did not even take up a "substantial portion of the time of the meeting".

Further insight into the nature of the "church" which here seeks exemption from payment of real estate taxes may be found in Exhibits "D-1" and "D-2" attached to the record. Both speak clearly for themselves. We note merely "D-1" a form letter printed on the stationery of "The Church of Love- The Holland Church of Gospel Ministry Inc." emanates from the residence of Graham and bears date of July 4, 1977- just ten days following the tax appeal filed in this Court. It may reasonably be summarized as an invitation to all recipients to attend so-called "Constitutional Tax and Law classes" for instruction, and perhaps inspiration, concerning avoidance or non-payment of taxes. Inferentially, Graham's letter suggests that those attending might learn how to join the "2,000 tax striking patriots in Denver, Colorado" who presumably were converted as the result of a similar program in that city.

The Exhibit "D-2", also on the letterhead of Graham's "church" is undated but makes reference to a planned "Constitutional workshop" scheduled for October 2, 1977 sponsored by "The Committee for Constitutional Taxation".

The form letter is addressed "Dear Taxpayer" and is entitled "ARE YOU TIRED OF BEING OVERTAXED?" It will be noted that each letter of the church pleads for the stated donation to be paid to the "Church of Love".

D-2 make reference to the "Posse Comitatus", suggesting to the recipients of the letter that those attending the Constitutional workshop can be informed about the "Posse". We can take judicial notice of the fact that Graham and others on September 12, 1977 recorded in the Recorded of Deeds a document denominated "CHARTER" in the name of "Bucks County Posse Comitatus [sic] Association" on September 12, 1977. The stated purpose of the "Posse is, in other words, "Local law enforcement officers, courts and other public officials will have full cooperation from the posse so long, and only so long, as they, too, operate in accordance with the principles of law as outlined..." in the Constitution of the United States, and in the "State of Pennsylvania, the Declaration of Independence, Magna Charta, and the rule of the Common Law". It was reported in the press that when queried Graham replied that "the posse may be the last peaceful way to solve [society's] problems," stating that "we don't want to see blood on the street, but if you take a man's house away there will be violence". He cited the "blocking" of "unlawful sheriff's sales" as one example of the kind of official activity the posse might support according to the press. Reference is here made to the posse merely to further illuminate nature of activities which

emanate from Graham and the "Church of Love". The documents attached to D-2 may be of interest in this area as well.

Noting that the assessment laws under which this county operate, and which essentially is identical to the General County Assessment Law², exempt from taxation "all churches, meeting houses, or other actual places of regularly stated religious worship...", and having before him the record briefly summarized above, the Hearing Judge unequivocally stated at the conclusion of the hearing that Graham's residence was not a "church", was not a place of regularly stated religious worship, and was therefore not entitled to the exemption sought. Parenthetically the Hearing Judge noted that even were we to accept the agreement of sale as a bona fide one, the appellant church was not the equitable owner of the real estate in question nor even in existence at the time the exemption was sought or at the time the appeal from the denial of the application was filed and hence had no standing to apply for exemption or to appeal.

A "Church" may have many different meanings to different persons. A church may be defined in many ways as for example: "An edifice for public Christian worship"; "public worship of God or a

² Act of May 22, 1933, P. L. 852, art. II, Section 204, as amended, 7 S. 5020-204.

religious service in such an edifice"; "the whole body of Christian believers, Christendom"; "any division of this body professing the same creed and acknowledging the same ecclesiastical authority- a Christian denomination"; that part of the whole Christian body or a particular denomination belonging to the same city, country, nation, etc; "a body of Christians worshipping in a particular building or constituting one congregation"; "ecclesiastical organization, power, and affairs, as distinguished from State"; "a place of public worship of a non-Christian religion; "any non-Christian society, organization or congregation, as the Jewish church".

The term "worship" has been defined as "reverent, honor and homage paid to God or a sacred personage or to any object regarded as sacred; and as "formal or ceremonious rendering of such honor and homage."

For the purpose of real estate tax exemption, however, when we speak of a "church", we necessarily contemplate a building in which any religious denomination, group or sect worships God.

Although we have a stereotype of the traditional steepled edifice which comes to mind when reference is made to a "church", nonetheless any "place" might be a "church" in that homage to God might be paid in the open-air, in the most humble of sheds, a barn, or in a house which to the eye appears to be nothing more than a dwelling. The im-

portant fact is not the nature of the structure, if any, situated on the land sought to be exempt a a "church" but rather the underlying inquiry must be as to the use of the land or building in question. Herein we unhesitatingly conclude that Graham's residence is not a church.

The Statutory Construction Act³ admonishes us to construe words contained in the statute "according to a common or approved usage". Abiding by this rule of construction the Hearing Judge could arrive at no other conclusion on this record that reached at the hearing's end. He concluded, and so stated, that eschewing subtleties, Graham blatantly and openly seeks exemption for his personal residence - not for a "church" - but in the pursuit of other obvious non-religious goals. In the opinion of the Haring Judge, Graham is not a "minister" although admittedly he has received a certificate so designating him and although, according to his testimony, he is a "cardinal" of the organization which denominated him as "minister". He had no formal religious training nor, so far as we can determine from this record has he been awarded the degree of Doctor of Divinity, notwithstanding his use of "D.D." following his name and signature found in certain documents.

³ Act of November 25, 1970, P.L. 707, No. 230 added December 6, 1972, P.L. 339, No. 290, Section 3, 1PACSA (1903) (a).

The Hearing Judge believes that the record is crystal clear in its revelation that Graham and his followers are concerned with affairs of State, rather than those of God and ecclesiastical matters. The pursuits of group are obviously secular in nature. It may be that Graham might lawfully continue to conduct his organization's affairs and pursue its goal under the name "The Church of Love". We are not called upon to determine that question. We simply here determine, and so find, that Graham's residence where meetings of his followers may be held is not a church, a meeting house, or other actual place of regularly stated religious worship, and hence is not entitled to real estate tax exemption under the Fourth to Eighth Class County Assessment nor, were it applicable, under the General County Assessment Law.

BY THE COURT:

J. J. Bodley

December 22, 1977

Supreme Court, U. S.

FILED

APR 24 1979

MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

October Term 1978

No. 78-1490

HOLLAND UNIVERSAL LIFE CHURCH OF LOVE, REV. ROBERT
B. GRAHAM, SR., PASTOR and ASSOCIATE PASTOR, DANIEL
J. CALLAHAN,

Petitioners-Appellants,

IN RE: Appeal of the Holland Universal Life Church
of Love, and Rev. Robert B. Graham, Sr.,
Pastor and Associate Pastor, Daniel J.
Callahan, from the Decision of the Bucks
County Board of Assessment Appeals -
County Tax Parcel No. 31-43-56

On Petition for Writ of Certiorari to the Supreme Court
of Pennsylvania

BRIEF IN OPPOSITION FOR
RESPONDENT COUNCIL ROCK SCHOOL DISTRICT

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IN THE
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On Petition for Writ of Certiorari to the Supreme
Court of Pennsylvania

RESPONDENT'S BRIEF IN OPPOSITION

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STATEMENT OF QUESTIONS INVOLVED

- I. Whether Petitioner has standing to challenge the decision of the lower Court denying a tax exemption on the residence.
- II. Whether a denial of tax exemption to the Appellant organization violates the First Amendment to the United States Constitution and Article I, Section Three in the Pennsylvania Constitution.

INTRODUCTION

The individual Appellant, Robert B. Graham, Sr. applied for tax exemption of his personal residence, Tax Parcel 31-43-56, known as 46 Lark Drive, Holland, Northampton Township, Bucks County, Pa. on the ground that the premises were being used as a "church for religious services and meetings." The application which was signed "Reverend Robert B. Graham, Sr. D.D." noted that title to the property was in the names of Robert B. and Elizabeth H. Graham, his wife, recorded in Deed Book 1960, page 4. The application stated that the address to which all communications should be transmitted was the "Church of Love, Holland Church of Gospel Ministry, Inc. 46 Lark Drive, Holland, Pa. 18966."

At all times relevant hereto the real estate in question was, is and will be used by the individual Appellant, Robert B. Graham, Sr., and his family as their private residence.

SUMMARY OF ARGUMENT

- I. Petitioner organization and its "ministers" lack standing to appeal the decision of the lower Court denying a tax exemption on the individual Petitioner's residence at 46 Lark Drive, Holland, Bucks County, Pa.
- II. There is no constitutional violation by denying the Petitioner organization a tax exemption. Tax exemption merely constitutes passive state involvement with religion.

ARGUMENT I

On March 7, 1977, the individual Petitioner, Robert B. Graham, Sr., applied for tax exemption of his personal residence on the ground that the premises were used as a church for religious services.

On May 4, 1977, the Grahams, owners of the residence in question executed an agreement of sale of their residence to the "Holland Universal Life Church of Love and Rev. Robert B. Graham, Sr., Pastor and Associate Pastor Daniel J. Callahan." The said agreement made said Holland Universal Life Church of Love the equitable owner of the residential property.

The Act of May 21, 1943, P.L. 571, §704 (72 P.S. 5453, 704) provides in pertinent part as follows:

"Any person who shall have appealed to the Board for relief from an assessment, who may feel aggrieved (Empha is Added) by the Order of the Board in relation to such assessment, may appeal from the Order of the Board to the Court of Common Pleas of the County within which the property is situated...within sixty days after the Board entered its Order on the said assessment...."

The record indicates that the Petitioner organization never formally and originally requested tax exemption from the Bucks County Board of Assessment Appeals. The Petitioner organization never formally appeared at a courtesy hearing on May 31, 1977, before the Bucks County Board of Assessment Appeals. However, the Petitioner organization did file the appeal to the Bucks County Court of Common Pleas.

ARGUMENT II

The Petitioner organization and the individual Petitioner contend that a denial of tax exemption is an infringement by the state on religion.

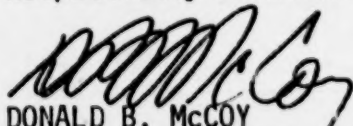
The United States Supreme Court, in discussing permissible governmental curtailment acts done in furtherance of or pursuant to religious belief, has allowed a certain degree of regulation. In Sherbert v. Verner, 374 U. S. 398, 403, 83 S.Ct. 1790, 1793, 10 L.Ed 2d 965 (1963), the Supreme Court stated:

"... [T]he Court has rejected challenges under the Free Exercise Clause to governmental regulation of certain overt acts prompted by religious beliefs or principles, for 'even when the action is in accord with one's religious convictions, [it] is not totally free from legislative restrictions.' Braunfeld v. Brown, 366 U.S. 599, 603, 81 S.Ct. 1144, 6 L.Ed.2d 563. The conduct or actions so regulated have invariably posed some substantial threat to public safety, peace or order."

CONCLUSION

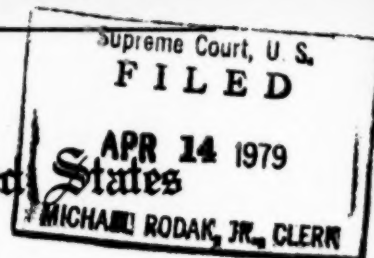
WHEREFORE, Respondent respectfully prays that your Honorable Court deny the Petition for Writ of Certiorari.

Respectfully submitted,



DONALD B. MCCOY
Attorney for Respondent
Council Rock School District

In The
Supreme Court of the United States



October Term, 1978

No. 78-1490

HOLLAND UNIVERSAL LIFE CHURCH OF LOVE, REV.
ROBERT B. GRAHAM, SR., PASTOR AND ASSOCIATE
PASTOR, DANIEL J. CALLAHAN,

Petitioners-Appellants,

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Board of Assessment Appeals—County Tax Parcel No. 31-43-56

*On Petition for Writ of Certiorari to the Supreme Court of
Pennsylvania*

**BRIEF IN OPPOSITION FOR
RESPONDENT TOWNSHIP OF NORTHAMPTON**

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In The
Supreme Court of the United States

October Term, 1978

No. 78-1490

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Board of Assessment Appeals — County Tax Parcel No.31-43-
56

*On Petition for Writ of Certiorari to the Supreme Court of
Pennsylvania*

RESPONDENT'S BRIEF IN OPPOSITION

INTRODUCTION

The tax parcel involved in this litigation has been, and continues to be, the family home of Mr. and Mrs. Graham in a residential district of a suburb of Philadelphia.

The procedure in this case was a strange one. Mr. Graham, by mail, became a minister of the Church of Gospel Ministry, Inc., and also of the Universal Life Church, Inc., which latter

corporation granted him the title of "First Cardinal." On behalf of a local church of the Gospel Ministry, an application for exemption was filed with the Bucks County Board of Assessment. Subsequently, a local church of the Universal Life Church with Mr. and Mrs. Graham and their son as its trustees, entered into an agreement with the Grahams to purchase their residence; then, the Universal Life Church affiliated appealed the denial of exemption sought by the Gospel Ministry affiliate.

The record in the lower court evidences that various persons came to Mr. Graham's home on Sunday afternoons in 1977 to discuss national issues, and other secular subjects, but nowhere is there a reference to "worship." No membership list of the "church" was maintained, no financial reports were kept, and there was no record of donations. Mr. Graham invoked the Fifth Amendment when a subpoena was issued to produce the bank account records of the local "church."

On this procedure and this evidence, petitioners sought a fractional exemption of the residence from real estate taxes under the laws of Pennsylvania.

ABSENCE OF A FEDERAL QUESTION

The Supreme Court of Pennsylvania denied a petition for allowance of appeal in this case; therefore the decision which your Honorable Court is being asked to review is that of the Pennsylvania Commonwealth Court [— Comm. Ct. — : 394 A.2d 665 (November 21, 1978)]. That decision was based *solely* upon an interpretation of the Pennsylvania exemption statute.

The Commonwealth Court did not decide the contention of respondents that petitioner-organization had no standing to sue. Nor did it decide those issues raised by the respondents that the property was not used for "worship" and that if used for religious worship, it would constitute an unlawful use in the residential neighborhood.

The Commonwealth Court did not decide for or against petitioner upon the sole point raised in the petition for writ of certiorari, namely, with respect to the "church" and its religion. The Commonwealth Court specifically stated that it was unnecessary to consider this issue, saying,

"Accordingly we take no position on the highly controverted issues revolving around the content and validity of appellant church's creed or doctrine."

The Commonwealth Court held, and this was the sole basis of its decision, that, under the enabling provisions of the Pennsylvania Constitution [presently Article 8, Section 2(a)], the legislative exercise of this delegated power by the Fourth to Eighth Class County Assessment Law, and the decisions of the courts of the Commonwealth, to qualify as "actual places of regularly stated religious worship," the use must be an exclusive use.

The holding of the Commonwealth Court clearly means that a portion of someone's home, even if used as an actual place of religious worship for a certain number of minutes, hours or days in a year, less than substantially all, is not entitled to a fractional exemption from real estate taxes under the Pennsylvania exemption statute.

If instead of petitioners "church," an Episcopal or Catholic Church, or a Synagogue, had used the home for some time each week, to the same limited extent as petitioner's "church," under the court's decision, the home would not be entitled to a partial exemption from real property taxes under the Pennsylvania law.

No federal question is presented by the petition; the petition does not controvert the relevant facts, nor the Pennsylvania law

that a use of a home for worship on some part of Sundays, and possibly other hours, does not entitle anyone to a fractional exemption from real estate taxation.

Petitioner's arguments with respect to religion are irrelevant on this matter, since the opinion below was predicated upon the obvious lack of exclusive use, not whether the use, if an exclusive one would qualify for exemption from real estate taxes in Pennsylvania.

CONCLUSION

Since no federal question was involved in the decision of the court below, respondent respectfully prays that the petition for writ of certiorari be denied.

Respectfully submitted,

s/ Robert C. Steiger
Attorney for Respondent
Northampton Township